

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

CATHERINE OKORO,)
Plaintiff,) Case No. CV 11-267
vs.) Milwaukee, Wisconsin
PYRAMID 4 AEGIS and JEROME BATTLES,) September 25, 2012
Defendants.) 1:46 p.m.

TRANSCRIPT OF JURY TRIAL EXCERPT
TESTIMONY OF JEROME BATTLES

BEFORE THE HONORABLE WILLIAM E. CALLAHAN, JR.
UNITED STATES MAGISTRATE JUDGE, and a jury.

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1 EXCERPT OF JURY TRIAL PROCEEDINGS

2 TESTIMONY OF JEROME BATTLES

3 * * *

4 THE COURT: Okay. Mr. Meyeroff?

01:46 5 MR. MEYEROFF: Okay, I'll call Jerome Battles.

6 JEROME BATTLES, DEFENSE WITNESS, DULY SWORN

7 THE CLERK: Thank you. Please be seated.

8 Would you please state your name and spell it for the
9 record.

01:46 10 THE WITNESS: Jerome Battles, J-E-R-O-M-E,
11 B-A-T-T-L-E-S.

12 DIRECT EXAMINATION

13 BY MR. MEYEROFF:

14 Q. Okay. Mr. Battles, are you married?

01:46 15 A. Yes.

16 Q. Are you separated from your wife?

17 A. Yes.

18 Q. How many children do you have?

19 A. Five.

01:47 20 Q. And what -- what's your -- what do you do for a living?

21 A. I work for AT&T U-verse. Install and repairs.

22 Q. And how long have you worked for AT&T?

23 A. AT&T, about five years.

24 Q. And before that?

01:47 25 A. Time Warner Cable.

1 Q. And how long did you work for them?

2 A. Could have been about -- I worked at least about 14, 15
3 years, but I believe documentation shows about 12 years.

4 Q. Now, where did you go to high school?

01:47 5 A. Rufus King.

6 Q. And what year did you graduate?

7 A. '78.

8 Q. And then did you have any further education?

9 A. Yes.

01:47 10 Q. Where?

11 A. MATC. Associate degree, police science. Second associate
12 degree, private security. Attend some courses at UWM-Milwaukee,
13 understudy criminal justice, two years.

14 Q. And where do you live?

01:48 15 A. 8211 West Hope Avenue, Milwaukee, Wisconsin.

16 Q. Do you own your own home?

17 A. Yes.

18 Q. And did you have a mortgage prior to going into this group
19 home business?

01:48 20 A. I had my private mortgage. And then I was doing
21 foreclosures. I bought this house as a foreclosure, in cash,
22 and I pulled out a second mortgage later, on the house.

23 Q. And what was the reason you put on a second mortgage?

24 A. Yes.

01:48 25 Q. What?

1 A. Yes. I put it on. The reason why?

2 Q. Yeah.

3 A. I had the business from '07 and up to '09, and I spent
4 probably enough money -- or I was losing money, lost money.

01:49 5 Market went bad.

6 Q. Wait just a minute.

7 A. Yes.

8 Q. Did you have to borrow money to buy the group home?

9 A. I had to borrow money to run the group home.

01:49 10 Q. Okay. And how much did you borrow?

11 A. 55,000, against.

12 Q. All right. And when did you buy the group home?

13 A. Foreclosure about -- I would say somewhere in about '06,
14 '07.

01:49 15 Q. And then you got the group home licensed to operate?

16 A. Yes. Agent Wade -- I met Agent Wade about that time. She
17 owned two group homes. And we set up a group home. She
18 encouraged me to set it up. And her and I set that group home
19 up. It's --

01:49 20 Q. All right, just wait for a question.

21 A. Yes.

22 Q. Was she your administrator?

23 A. From day one, yes.

24 Q. And what other training did Adriane Wade have?

01:50 25 A. The state required you to have quite an amount of

1 experience. Education was in social work or -- you have to send
2 that document to the state.

3 Q. Was Adriane Wade a registered nurse?

4 A. She's a registered nurse. And she has I believe a masters
01:50 5 in administration or in the field.

6 Q. And she helped you set up and get the group home certified;
7 is that right?

8 A. Yes. Based on her structure. It's named after her
9 business.

01:50 10 Q. All right. Where did you get that name? What's the name of
11 the group home?

12 A. Name of the group home is Pyramid 4 Aegis.

13 Q. What does that mean?

14 A. Just a Pyramid. Got it from her. Her group home is Pyramid
01:51 15 Group Homes, mine is 4 Aegis.

16 Q. Now, during the time -- so do you still own the group home?

17 A. Yes. It's in -- license has been revoked.

18 Q. License has been revoked?

19 A. It's in process because of management.

01:51 20 Q. Because of what?

21 A. Management.

22 Q. Do you have any clients now?

23 A. No. Haven't for over almost two years.

24 Q. Now, during the time that you were operating the group home
01:51 25 did you ever pay yourself back any of the money you loaned to

1 the group home?

2 A. We increased three clients and I was taking my work money
3 and putting it into the business. And I had taken -- not taken,
4 but I put down like \$500 every two weeks to pay myself back the
5 money that I put in from my job to pay my mortgage and the
6 second mortgage.

7 Q. Now, when did you meet Ms. Okoro?

8 A. I believe I met her -- I believe that was about '09. She
9 came to my building.

01:52 10 Q. And so she came right to the group home?

11 A. Yes.

12 Q. And why did she come there?

13 A. Well, don't know how she got my name. But she came there,
14 we sat and talked, and she took information. And she liked the
01:53 15 information she received and asked for a relationship formal
16 first.

17 Q. Did she talk about insurance?

18 A. Yes. She sold me a home policy, vehicle, and a policy
19 that -- \$5,000 policy which is -- I hear it's much less than
20 that. So I don't know what happened with that. But --

21 Q. Was that a liability policy?

22 A. That was a million-dollar policy for the group home.

23 Q. And how much did you pay her for that?

24 A. That was -- first payment was \$2500, and then I have to pay
25 a second payment thereafter.

1 Q. And then what, she asked if you wanted to date her?

2 A. Date. And then she solicited as other agents does, numbers
3 of my friends. And she called a number of those friends for
4 business.

01:54 5 Q. All right.

6 A. She asked me to date her. Quite honestly, I thought was
7 strange.

8 Q. Did she ask to become involved in your group home business?

9 A. She said she wanted to learn the group home. And we got to
01:54 10 talking. And she understood that I had some issues and problems
11 with an agent that wasn't caring much for the business. She
12 said I'll help you to volunteer --

13 Q. Could you speak louder, please?

14 A. I'm sorry. My voice is a little low anyway.

01:54 15 She offered to -- she said that she got a business,
16 she got her own money, and she also owned property in Africa.
17 And she wanted to help me. And she wanted to learn the
18 business.

19 Q. Did she ever ask you to pay her?

01:55 20 MS. WILLENSON: Judge, could we get a foundation for
21 this?

22 THE COURT: Are you going to be conducting the
23 examination?

24 MS. WILLENSON: Of Mr. Battles, yes.

01:55 25 THE COURT: Okay. Overruled. Go ahead. Ask your

1 question.

2 BY MR. MEYEROFF:

3 Q. Yeah. Did she ever ask you to pay her?

4 A. No. We never discussed money. It was to start off a
01:55 relationship. It was all about a relationship and going out
5 door to door. It wasn't about money. Didn't have any client.
6 It was about her learning the business. Much information I got
7 from Adriane, learned from Adriane. I was to teach her and
8 involve her with the other people that's involved.

9
01:55 Q. And you said that you didn't have any clients; why did you
10 talk about that?

11 A. I said I didn't have any client. Getting clients, Adriane
12 and I, we did open house. That's one of the reasons she got the
13 idea of the open house. We did open house, we did grass root.

14
01:56 We did have one particular client, if I remember he
15 was an older gentleman. He died some months after. It was a
16 emergency situation. Cathy doesn't know anything about that.

17 Q. Let me stop you there. You talked about not being able to
18 pay Catherine and then why couldn't you pay her?

19 A. Catherine came on board -- Catherine and I was together.
20 From day one I was in debt. I was in debt, didn't have money.
21 We were running in the negative. No client.

22 Q. Okay. Did Catherine ever talk to you about where her kids
23 went to school?

24 A. Of course. I mean, I've been an athlete, you know, in
25

1 college and high school, and I was interested. I took state in
2 track. Played basketball.

3 Q. Did her kids go to Messmer?

4 A. Yes.

01:57 5 Q. How did that enter into the relationship you had in her
6 working at your place?

7 A. Well, because I was an athlete I spent time mentoring her
8 kids. Went to the game, coached the game, played the game,
9 college, high school. And we spent time together. Her kids was
01:57 10 a few blocks away. She stopped by the building. We often
11 talked about her kids and sports and what I've done in the city
12 of Milwaukee. I went to a few games. Went to her house.
13 Couple parks. We had done parks.

14 Q. Let me stop you there. Did you ever go to see Ms. Okoro's
01:58 15 daughter play sports?

16 A. Sure.

17 Q. How many times?

18 A. I met the coach, at least twice. I met the coach, talked to
19 the coach. Went to her practice, went to her game. Gave her
01:58 20 tips.

21 Q. All right. And what -- about what time of day was that?

22 A. I think that JV starts early. They started for varsity so
23 varsity, I believe about 7:00 they start. JV's early, it's
24 maybe like 5:00 or 5:30.

01:58 25 Q. Was her daughter on JV?

1 A. Yeah, she wasn't on varsity at the time.

2 THE COURT: What sport are we talking about?

3 THE WITNESS: Basketball.

4 BY MR. MEYEROFF:

01:58 5 Q. Basketball?

6 A. Yeah.

7 Q. And what months would that have been?

8 A. Wow, basketball starts -- you gotta think about around
9 November. Around November and December. You had practice,
01:58 10 games. I think games start in December.

11 MS. WILLENSON: Your Honor, the witness is
12 speculating, not testifying from his memory.

13 THE WITNESS: I played basketball. I'm not
14 speculating.

01:58 15 THE COURT: All right. Stop. Ask another question.

16 BY MR. MEYEROFF:

17 Q. Okay. So you said that -- how many times did you pick up
18 the daughter or pick up Ms. Okoro to take her to the see the
19 daughter play basketball?

01:59 20 A. Not to even mention --

21 Q. Just answer the question.

22 A. You asked me how many times. I picked up her daughter from
23 school once before.

24 Q. What?

01:59 25 A. I also picked her daughter up from school. I've done that

1 too at the practice.

2 THE COURT: Okay. This is not uncommon that everybody
3 wants to kind of tell their story, but we have to do it in an
4 organized fashion. So I'm going to remind you to answer the
5 question that's asked. And I think the question was how many
6 times -- what was the question --

7 BY MR. MEYEROFF:

8 Q. How many times did you pick -- or did you take Miss Okoro
9 from work to see her daughter play basketball?

01:59 10 A. Probably twice.

11 Q. All right. And did you ever -- did Ms. Okoro's daughter
12 play any other sport?

13 A. She was running track.

14 Q. Did you ever go to see a track meet with Ms. Okoro?

02:00 15 A. I don't think I made the track meet, no.

16 Q. Now, you've heard the testimony about this Exhibit 2 which
17 are these timesheets; did you hear that testimony?

18 A. I heard the testimony.

19 Q. Did you ever see a timesheet that Ms. Okoro filled out?

02:00 20 A. Never.

21 Q. During the time that Ms. Okoro worked there did she ever ask
22 you for money?

23 A. No.

24 Q. Even before she left like in May of 2010, did she tell you
25 she was leaving because she wasn't being paid?

1 A. There was other issues. No.

2 Q. Did she ever tell you why she was leaving?

3 A. It wasn't because of money.

4 Q. What did she tell you?

02:01 5 A. It was because of other female's jealousies. I offered
6 her --

7 Q. Just a minute.

8 A. I'm sorry.

9 MS. WILLENSON: Move to strike that.

02:01 10 THE COURT: Well, I assume -- well, why don't you -- I
11 think it's important that we find out the basis of his remarks
12 right there. I don't know what the basis is. There's a lack of
13 foundation.

14 BY MR. MEYEROFF:

02:01 15 Q. Mr. Battles, I'll ask you what did Miss Okoro tell you was
16 the reason that she left?

17 A. Her reason was because, more like female issues.

18 THE COURT: She says I'm leaving because of female
19 issues? What did she tell you is the reason why she was
02:02 20 leaving?

21 THE WITNESS: No. It was female issues. And then
22 also, I said -- do you want me to explain? I can explain.

23 THE COURT: I think the question is what did she tell
24 you as to why she was leaving? That's the question.

02:02 25 THE WITNESS: Okay. She never told me she was

1 leaving. I had a conference with her and she walked out. And,
2 you know, it's -- she was helping me. She had a conference with
3 me, she said, "I'm walking out."

4 BY MR. MEYEROFF:

02:02 5 Q. And did she say why?

6 A. I can explain if you want me to.

7 THE COURT: Well, the question is did you ask her why
8 she was leaving, why she walked out?

9 THE WITNESS: We were having a conversation. She was
02:03 10 being argumental. And she walked off. Just walked.

11 BY MR. MEYEROFF:

12 Q. So is it correct to say she never told you why she was
13 leaving?

14 A. No. We didn't have -- it wasn't that. It was more just the
02:03 15 jealousy.

16 Q. Did she ever -- all right. Okay. What leads you to suspect
17 that it was because of jealousy?

18 A. Well, her and I stopped talking and dealing with each other
19 I would say during November. And there was another young lady
02:03 20 that I was seeing, she knows that. And also that was during the
21 time that she was rejected that I sent information for the
22 administrator.

23 Q. When you say she was rejected, as an administrator?

24 A. Yes.

02:04 25 Q. And who rejected her?

1 A. Caroline Happel. She's one of the administrators for the
2 state, quality assurance, submitting the information,
3 documentation to care for the client, rejected her.

4 Q. And that happened in November of 2009?

02:04 5 A. In around about that time.

6 Q. But Miss Okoro continued to show up at your group home; is
7 that right?

8 A. Yeah.

9 Q. All right.

02:04 10 A. Yeah, whatever.

11 Q. And what duties did she have there, if any?

12 A. We wasn't looking at it as duties. I know we keep saying
13 work, but her premises was I want to help you. She was the one
14 that says help.

02:05 15 Q. All right. Let me stop you there. Did she have any set
16 hours?

17 A. No. We never did. I have a lockbox on that door. And the
18 premises is that my caregivers, they pick up the key, they go in
19 the facility, and they attend their responsibilities.

02:05 20 Q. Did Miss Okoro ever tell you how many hours she was working?

21 A. No. Sometime we would meet. No, she didn't tell me. She
22 wouldn't talk about that.

23 Q. Did you ever promise to pay her \$2,000 a month?

24 A. No. I don't have money to give.

02:05 25 Q. Was -- now, you say she was not an administrator, was she a

1 caregiver?

2 A. She wasn't a caregiver, she was an administrator.

3 Q. All right.

4 A. She was my girlfriend at the time.

02:06 5 Q. Did she have an employment contract?

6 A. Never.

7 Q. Did she have a personnel file?

8 A. If she did she hid it, she had it at home.

9 Q. Now, I'm going to show you some documents here. I'm going
02:06 10 to show you what's been marked as Exhibit 6 and ask if you can
11 recognize this.

12 A. I do.

13 Q. What is it?

14 A. It's a pamphlet that Adriane and I put together and it's
02:07 15 been blacked out by a jealous woman with Adriane's name and
16 phone number on it.

17 Q. Whose name is blacked out on it?

18 A. Adriane Wade. That's second in command above me.

19 Q. And where did the wording come from on the first and second
02:07 20 page of Exhibit 6?

21 A. The wording? These are statements from Adriane to file that
22 she copied all of her information from her facility and brought
23 it over to my building. And we just -- there's a copy of that.

24 Q. Now, Ms. Okoro, one of her exhibits is a letter she sent out
02:08 25 to caregivers; do you recall that?

1 THE COURT: What exhibit are you talking about?

2 MR. MEYEROFF: I'm just looking for it.

3 BY MS. SALAWDEH:

4 Q. Now, these Exhibit 12 are two letters of discipline. Have
02:08 you ever seen these before?

6 A. Never seen them. Never signed them. Never seen it.

7 Q. Were you aware of some problem that Ms. Okoro caused with
8 the employees?

9 A. There was one particular problem that I had to talk to
02:09 Ms. Okoro about in handling my workers. She was being very
11 rude.

12 Q. Speak up.

13 A. I'm sorry. She was being very forceful and rude using some
14 hard manners in front of her kids at the group home and I had to
02:09 talk with her.

16 Q. Were there any complaints from your employees?

17 A. There were complaints.

18 Q. Now, Ms. Okoro has introduced testimony indicating that she
19 contacted doctors on behalf of the clients; did you hear that
02:10 testimony?

21 A. I did.

22 Q. Was that -- was she authorized to do things like that?

23 A. No, she didn't have to.

24 Q. Whose job is it to contact the doctors?

02:10 A. Adriane Wade.

1 Q. Now, about how many times a week did you go to the group
2 home?

3 A. I would say maybe out of seven days, maybe three to four
4 times a week.

02:11 5 Q. And Miss Okoro worked mainly between Monday and Friday?

6 A. You said work? You said between Monday and Friday?

7 Q. Yes.

8 A. I don't know when she went to the building.

9 Q. All right.

02:11 10 A. She wouldn't tell me. She would just go.

11 Q. Let me ask you a better question. How many times a week did
12 you go there between Monday and Friday?

13 A. My shift varies. Sometime I'm off in the week. I'm off a
14 couple days of the week. I'll go by a couple times in a week.

02:11 15 THE COURT: You mean when you're off your other job?

16 THE WITNESS: Yeah, AT&T.

17 BY MR. MEYEROFF:

18 Q. So when you went there say during the week between Monday
19 and Friday, would Miss Okoro typically be there?

02:11 20 A. No.

21 Q. What time of day would you usually go?

22 A. Usually in the beginning --

23 Q. Just answer what time of day would you go?

24 A. Would I go?

02:12 25 Q. Yeah.

1 A. I go various different times because of my building. I go
2 during my route when I'm working for AT&T. I'll go there during
3 lunch. I go there after on my route back from the east side.
4 At night sometimes I'll go by.

02:12 5 Q. When you say at night what time do you mean?

6 A. A surprise visit sometimes 12:00, 11:00. You know,
7 surprise.

8 Q. Did you ever go there and take Miss Okoro out to dinner?

9 A. Maybe three, four times a week.

02:12 10 Q. So tell me typically what time you would show up and how
11 long you would stay and when you would leave and when you would
12 come back.

13 A. Sometime off work Wednesday, Thursday, sometime Tuesday,
14 Wednesday.

02:12 15 Q. What time?

16 A. I would have all day. Sometimes we'd do lunch. We've done
17 lunch. We've done Cracker Barrel in the morning. You know,
18 it's different times of the day.

19 Q. And you've looked at Exhibit 2 and some of the time you took
02:13 20 her out to lunch were times she claimed to be working?

21 A. Appeared to be.

22 Q. Now, did Miss Okoro at one point buy you a present
23 consisting of an African pants and a shirt?

24 A. Yes.

02:13 25 Q. And do you know when that was?

1 A. That was I would say a few months after the relationship
2 began.

3 Q. And the relationship began when?

4 A. I would say around November, in that area. November '09.

02:14 5 Q. All right. And was it -- was it a time that's covered by
6 Exhibit 2?

7 A. What's your question?

8 Q. You know, Exhibit 2 goes from May of 2009 -- wait -- June of
9 2009 to May of 2010.

02:15 10 A. Okay.

11 Q. And you said it happened in November of 2009, about.

12 A. Well, I'm guessing. I'm just -- I know shortly after --
13 May, June -- she -- I know within six months she went to Africa,
14 she was gone for a month.

02:15 15 Q. How long was she gone for?

16 A. It seemed -- I believe because she had some personal
17 business and it took her some time to do that, so it seemed to
18 me it was about a month.

19 Q. I'm going to show you Exhibit 2. And Exhibit 2 starts
02:15 20 6/7/09. Do you see that?

21 A. Right.

22 Q. And it ends May 18th of 2010 on the last page. Do you see
23 that?

24 A. Uh-huh.

02:15 25 Q. Okay. And you said that the Africa trip was around November

1 of 2009?

2 A. Well, correction -- let me correct you on that one. I said
3 it was a few months after I met her. A few months. In November
4 is when we had our first client. So I need to correct that. A
5 few months after I dated her she took a trip to Africa.

6 THE COURT: When did you start dating her?

7 THE WITNESS: So that's where it's foggy there. More
8 so there in that May time, in that area. But I know it was a
9 few months after we were dating she went to Africa and brought
10 the shirt and pants back.

11 BY MR. MEYEROFF:

12 Q. So you started dating her in May of 2009?

13 A. Somewhere in there.

14 Q. And to the best of your recollection the Africa trip was a
15 few months after.

16 A. Yeah, few months after dating.

17 Q. And was the trip over before you got your first client
18 there?

19 A. I know the first client was in November. I'm not sure.

20 It's more possible that it was because it was a few months after
21 dating and our first client was in November.

22 Q. Was Miss Okoro a supervisor at your group home?

23 A. She couldn't. She needed to learn the business. She didn't
24 have the knowledge.

25 Q. Do you see the timesheet that calls for the signature of a

1 supervisor?

2 A. I saw something for supervisor, yes.

3 Q. And do you know whose signature that is?

4 A. I can't read that, it's a scribble.

02:17 5 Q. All right.

6 A. Looks like Catherine something.

7 Q. Did you ever come to the group home when Ms. Okoro was there
8 and take her to the park?

9 A. Of course. We played basketball. I took the kids to the
02:18 10 park, took her to the park, and we played basketball. Some
11 kids -- one of the kids went over to play volleyball in the
12 sand.

13 Q. About what time of day was that?

14 A. Talking, I remember we started --

02:18 15 Q. Just give me the time.

16 A. Before dark because it got dark on us. So it was about
17 probably -- I'm looking at about maybe 5:00, 6:00.

18 Q. Did you ever observe Ms. Okoro doing insurance work at the
19 group home?

02:19 20 A. Quite often.

21 Q. What did you observe?

22 A. Well, she took my names of my friends, she made phone calls.
23 She was in transition from a -- she was working for a firm, I
24 don't know if it was Farmers or whatever, but then she was
02:19 25 moving to her own office. She didn't have an office, so she

1 would come and use my building. And then she would call some
2 clients, make appointments or something like that. Because she
3 went out on her own business. She was afraid to go out in her
4 own business, I remember that. She wasn't solid with the
02:20 5 building yet, her own business, before she pared up with another
6 guy.

7 MR. MEYEROFF: I have no other questions.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

02:21 10 BY MS. WILLENSON:

11 Q. Mr. Battles, how many hours do you think it would be
12 appropriate to deduct from the hours shown on the timesheet to
13 account for the trips to the park or the basketball games you've
14 described? Would that be about 10 hours?

02:21 15 A. Basketball court, if I were deducting any hours, social,
16 basketball, relationship, if she did any hours in helping a
17 week, I would say she may have came in probably three to four
18 times a week and she may have spent -- when she'd come there,
19 wait on her kids, maybe an hour. Because we're trying to get in
02:22 20 and out because we want to get home.

21 Q. Mr. Battles, that wasn't my question.

22 A. I would say she'd spent an hour out of three times a week
23 visiting.

24 Q. My question wasn't for you to guess based on speculation how
02:22 25 many hours you say Ms. Okoro was working. My question was: If

1 you were to deduct hours from the timesheets that you say you
2 spent with Ms. Okoro on trips to the park or basketball games,
3 how many hours should that be?

4 MR. MEYEROFF: I'll object on the basis that it shows
02:22 5 that the timesheets have any legitimacy at all.

6 THE COURT: Well, it's somewhat argumentative. Why
7 don't you just ask him how many hours -- rather than framing it
8 in terms of how many hours would you deduct, how many hours did
9 they do that.

02:23 10 BY MS. WILLENSON:

11 Q. How many hours did you spend at the park with Ms. Okoro or
12 at her kids' basketball games that overlap with hours that are
13 on the timesheet and, therefore, should be deducted from
14 whatever amount of hours the jury would recognize as hours
02:23 15 worked?

16 A. Probably I spent about probably parts of games with them,
17 maybe 24 hours or so, maybe 30.

18 Q. And on which week was that?

19 A. Which week?

02:24 20 Q. Yeah.

21 A. We've done a lot of different things just on basketball and
22 parks.

23 Q. How do we know --

24 A. Excuse me?

02:24 25 Q. You can finish your answer.

1 A. We've done a lot of things other than basketball and park.

2 Q. But I'm asking about those things because you specifically
3 mentioned those. And you had suggested that those things were
4 done during periods of time that Ms. Okoro has recorded on these
5 timesheets, so those are the questions I'm asking about.

6 A. Maybe 30.

7 Q. 24 to 30 hours. And where should those deductions be taken?

8 A. What do you mean?

9 Q. From which week?

10 A. I don't know. I've never seen these timesheets. I would
11 say 30 hours from what she's using as an exhibit.

12 Q. And you have no idea that those 30 hours that you spent with
13 her at the park or at basketball games allegedly with her were
14 at the same time hours as recorded on the timesheets.

15 A. We never looked at that as hours of work. So 30 hours do
16 you want to say parks and games.

17 Q. But my question is, you don't know whether those were
18 Ms. Okoro's work hours recorded on Exhibit 2.

19 A. I do know. If she's saying that these JV games are in the
20 middle of the week, and I'm off on Wednesday and Thursday, and
21 Tuesday and Wednesday and she says she's there at 8:00 o'clock,
22 you know, that's some of the time. So I never sat down and
23 count it up, but that's during the time she said she worked.

24 Q. All right. And the reason you didn't count it up is because
25 you didn't keep any record yourself of the hours that Ms. Okoro

1 worked.

2 A. We didn't have any agreement.

3 Q. I'm asking you a yes-or-no question. Is it the case that
4 you did not keep any record of Ms. Okoro's work hours?

02:26 5 A. I had no knowledge we were keeping record of hours of any
6 work.

7 Q. Did you keep any records, time records for her?

8 A. I kept only my caregiver's hours and they got paid.

9 Q. That's a no. Isn't that a no?

02:26 10 A. We didn't. I didn't.

11 Q. And did you direct anyone to create time records for
12 Ms. Okoro?

13 A. We weren't supposed to.

14 Q. Did you direct anyone to keep time records for her?

02:26 15 A. No one.

16 Q. You didn't direct anyone.

17 A. We never had an agreement to.

18 Q. You didn't keep records yourself and you didn't direct
19 anyone to keep them; is that correct?

02:26 20 A. Yes.

21 Q. Do you understand that under the Fair Labor Standards Act
22 employers are required to keep and maintain accurate records of
23 the hours worked by their employees?

24 A. She wasn't working for me.

02:26 25 Q. Can you answer -- please answer the question that I've

1 asked. Do you understand that that's a requirement of the Fair
2 Labor Standards Act?

3 A. I understand that as an employee.

4 Q. In other words, you've been an employee and so you
02:27 understand that your employer should keep track of your hours?

6 A. I can't walk on anybody's job without signing an agreement
7 and acknowledgement that I'm working the job.

8 Q. So you understand that time records should be maintained for
9 employees.

02:27 10 A. Of course.

11 Q. And that should be done by their employees.

12 A. If they're employees.

13 Q. I understand. And the responsibility for that lies upon the
14 employer, correct?

02:27 15 A. We didn't have that agreement.

16 THE COURT: Okay. Let's not talk about Ms. Okoro.
17 The question is whether or not you know that an employer is
18 supposed to keep records of employees' time.

19 THE WITNESS: Yes.

02:27 20 THE COURT: Okay. Next question.

21 BY MS. WILLENSON:

22 Q. And you didn't do that for Ms. Okoro.

23 A. No.

24 Q. And that's because according to what you just said she
02:27 25 wasn't your employee.

1 A. That was our agreement as a relationship, as friend and
2 help.

3 Q. Do you understand the court has already made a decision --

4 THE COURT: No, don't talk about me. Let's talk about
5 his knowledge.

6 BY MS. WILLENSON:

7 Q. Is it still your contention, sitting here right now, that
8 Ms. Okoro was not your employee?

9 A. It's hard to fascinate that if we're talking about a
02:28 10 relationship and then she wanted to help me and never talk about
11 any money until there's some jealousies or some problems.

12 Q. So you're still suggesting that she wasn't your employee,
13 sitting here --

14 MR. MEYEROFF: Your Honor, could we have a side bar?

15 THE COURT: No. Next question.

16 MS. WILLENSON: Is he directed to answer that
17 question?

18 THE COURT: What's the question?

19 MS. WILLENSON: Is he suggesting, sitting here today,
02:28 20 that she wasn't his employee.

21 THE COURT: You didn't think she was your employee,
22 right?

23 THE WITNESS: I didn't think she was.

24 THE COURT: Okay, next question.

25 BY MS. WILLENSON:

1 Q. When did you first buy insurance for Ms. Okoro -- from
2 Ms. Okoro?

3 A. Shortly after meeting her. Don't know the exact date.

4 Q. Do you know what year that was?

02:29 5 A. During the year of I believe '09.

6 Q. Was it the winter of '09, the spring of '09?

7 A. I believe it probably was spring.

8 Q. Do you remember the month?

9 A. No.

02:29 10 Q. Did you yourself see Ms. Okoro use harsh manners or words
11 with anybody present at Pyramid 4 Aegis?

12 A. With me. And quite often I had to talk to her about that.

13 Q. You had to talk to her about the fact that she used harsh
14 language with you?

02:29 15 A. With me, because it's just her nature when she's -- she told
16 me it was a culture thing, but I had to talk to her about it.

17 Q. Did you observe her use any harsh manners or words with any
18 other person?

19 A. I have.

02:30 20 Q. And --

21 A. And she said that she has a loud tone, that's just the way
22 she are.

23 Q. Who did you see her use harsh manners and words with?

24 A. Young lady, what's her name, we call her -- not Tamika. I
25 think her name is Tamika.

1 Q. And was this an employee of your company?

2 A. No. No.

3 Q. Who is Tamika?

4 A. That was a client.

02:30 5 Q. I see. You said something about a lockbox?

6 A. Yes.

7 Q. And that employees could use that to get into the facility?

8 A. Yes.

9 Q. Who would be there if Ms. Okoro wasn't there to ensure that
02:31 10 they were doing what they were supposed to be doing?

11 A. The caregivers are responsible to be on duty. There's a
12 lockbox outside with a key there. Caregivers don't have to open
13 the door. They get paid to open the building and perform their
14 duties.

02:31 15 Q. Who supervised them in Ms. Okoro's absence?

16 A. They are paid to do their duties. And they don't have to --
17 administrators, Adriane Wade, she can assist them, but they're
18 paid to because of their job description to administer, make
19 phone calls to doctors and the family members somewhat. That's
02:31 20 their job. They're there.

21 The caregiver is supposed to be there. It's a
22 problem, you have two people there in the household managing.
23 So that's their responsibility.

24 Q. And do you think it would be appropriate to leave the group
02:32 25 home with just the caregivers inside with no supervision?

1 A. Of course. My third shift sleeps overnight with the client
2 on third shift. I've been in there overnight myself.

3 Q. So is that your testimony that for the -- for all or a
4 portion of Ms. Okoro's employment the caregivers were
5 unsupervised?

6 A. They don't need to be -- someone do not need to be on site
7 in any group home. Any group home.

8 Q. So is that a yes?

9 A. What's your question?

02:32 10 Q. Whether during either all or most of Ms. Okoro's employment
11 the caregivers, according to you, were unsupervised.

12 A. No. They had Adriane Wade there. Which there's times where
13 there was some medical issues and they call Adriane Wade. She
14 came down and -- but she's a nurse as well as an administrator
15 and can assist.

16 Q. So your testimony is that during the entire time in
17 Ms. Okoro's employment Adriane Wade continued to work for you?

18 A. Has been my administrator.

19 Q. The entire time.

02:33 20 A. Entire time up until the -- my daughter came on as
21 administrator on 5/1/2010.

22 Q. Did you pay Ms. Wade as an administrator?

23 A. No.

24 THE COURT: We're going to take our midafternoon
02:34 25 recess. Let's take about 15 minutes. It's about 2:30 right now

1 according to the court clock.

2 Now, don't talk about the case. Keep an open mind
3 until you've heard all the evidence and the arguments of counsel
4 and the instructions of the court.

02:34 5 All rise for the jury.

6 (Jury out at 2:34 p.m.)

7 (Recess taken at 2:35 p.m., until 2:52 p.m.)

8 THE COURT: Before we bring the jury in, what I'd like
9 to do -- now, Mr. Battles is your only witness; is that correct,
02:52 10 Mr. Meyeroff?

11 MR. MEYEROFF: Yes.

12 THE COURT: Do you know if you're going to be calling
13 any rebuttal? Or --

14 MS. WILLENSON: No, we will not.

02:52 15 THE COURT: What I thought I'd do is hear the
16 testimony of Mr. Battles and then we'll take a short recess, go
17 through the jury instructions. And I don't know if you have any
18 objections or anything you want to add, but we should -- 'cause
19 I'd like to if possible instruct them and give the closing
20 argument today. If they have to come back tomorrow to
21 deliberate that's a separate question, but I'd like to
22 accomplish that if we could. Is that okay with everybody?

23 MR. MEYEROFF: Yes.

24 MS. SALAWDEH: That would be great.

02:53 25 THE COURT: So how do the instructions look?

1 MR. MEYEROFF: Fine. I have no objections.

2 MS. WILLENSON: We have a couple. Do you want to --

3 THE COURT: Sure. No, let's talk real quickly here.

4 MS. WILLENSON: Okay. On I think I'm looking at the
02:53 5 newest one, on page 2, at the bottom of page 2, there's the
6 second part of a reference --

7 THE COURT: Sit down, please.

8 MS. WILLENSON: We don't have any objection to the
9 second-to-last paragraph which includes corporations as persons
02:53 10 and so on.

11 THE COURT: Right.

12 MS. WILLENSON: But that last paragraph I think is
13 very confusing because there's no issue here about vicarious
14 liability. I mean, you've already decided it's a joint employer
02:53 15 situation. And I think this -- I understand it's standard
16 language, but in context this is quite confusing because we're
17 going to have an instruction under the Fair Labor Standards Act
18 that work that Ms. Okoro performed that was permitted.

19 THE COURT: Okay.

20 MS. WILLENSON: Would be compensable.

21 THE COURT: So you want that paragraph out.

22 MS. WILLENSON: Yeah.

23 MR. MEYEROFF: Your Honor, let me just read it again.

24 (Brief pause.)

02:54 25 THE COURT: I hear what you're saying. It makes an

1 issue out of something that's not really an issue.

2 MS. WILLENSON: Exactly.

3 THE COURT: All right, we'll take that photograph out.

4 Anything else?

02:54 5 MS. WILLENSON: The only other concern I had was given
6 the way some of the testimony has come in I think we would like
7 to see part of an instruction that we had proposed that deals
8 with this issue of what's called continuous workday. And what
9 we had suggested, some of the language we had suggested is:

02:55 10 "For work done in a single workday an employee has the
11 right to be paid continuously from the time she starts her
12 principal work activities until she completes work on the same
13 day except for meal periods, regardless of how long those
14 activities take to perform or whether productive work is being
02:55 15 performed the entire time."

16 And this might need to be modified just in light of
17 the particular schedule that she had after the clients came into
18 the facility where she was --

19 THE COURT: But she's testified she was there all the
02:55 20 time when she says she was there. She was working the whole
21 time during the hours that she's got on the timesheets.

22 MS. WILLENSON: But what Mr. Battles has suggested is
23 that for some of that time she may have been engaged in taking a
24 phone call for her insurance business, or dropping her child
02:55 25 off, or waiting for him, or socializing with him. And the point

1 is that even if there was some unproductive time, under the
2 continuous workday rule she would be compensated for that time.

3 An employee's shift or as the regular pattern of
4 working from 8:00 to 1:00 and during that period they take a
5 phone call for another purpose or a personal call or a
6 discussion at the water cooler, that's still time that has to be
7 compensated.

8 MR. MEYEROFF: Your Honor, I think that's taken care
9 of on page 9 where it determines what is an hour worked and it
10 says something done primarily for the benefit of the employer.
11 And then it says: "Furthermore, work not requested but
12 permitted to be performed is work time that must be paid for by
13 the employer."

14 So I think she should get paid for every hour that she
15 was working for the benefit of the employer and nothing more.
16 If she took off an hour to do insurance work she shouldn't be
17 paid for that.

18 MS. WILLENSON: But that's actually not what the law
19 is and that's the issue. And that's what I would assume that
20 Mr. Meyeroff intends to offer. The law is the continuous
21 workday rule.

22 THE COURT: Doesn't that apply where there is a
23 continuous eight-hour work day? That's not what we have here.

24 MS. WILLENSON: It is. She had a regular schedule.
25 They can deny it.

1 MR. MEYEROFF: Well, I think that this rule you're
2 citing contradicts what's in the instruction as to what an hour
3 of work is. If an hour of work has to be done for the purpose
4 of the employer how can you pay her for the next hour of work
5 that isn't done for the purpose of the employer?

02:57 6 MS. WILLENSON: If she starts work at 8:00 and works
7 until 10:00 and then leaves, she doesn't need to be paid until
8 1:00 o'clock. If she's engaged in work activities between the
9 hours of 8:00 and 1:00 o'clock and she takes a phone call at
10 11:15 for 15 minutes, she still gets paid for the 15 minutes.

11 11 MR. MEYEROFF: Yeah, it says that an hour is work
12 pursued necessarily and primarily for the benefit of the
13 employer.

14 14 You could argue that, you know, it's just an
02:58 15 insignificant interruption which shouldn't decrease her pay.
16 16 But I don't think you can tell them that they have to pay her
17 17 for the 15, 20 or 50 minutes that she's on the phone working for
18 18 her insurance business.

19 19 THE COURT: What else do you have?

20 20 MS. WILLENSON: That's the issue. And what this
21 21 instruction addresses is the definition of employment, the
22 22 definition of work under the Fair Labor Standards Act.

23 23 The other issue is this continuous workday rule which
24 24 describes how time is counted for an employee who is on the
25 25 premises or engaged in work activities from X hour to X hour.

1 You actually can tell the jury that if she takes an insurance
2 call for some unspecified undocumented amount of time that they
3 don't need to guess about those hours because those hours would
4 be compensable anyway.

02:59 5 MR. MEYEROFF: What if she took an insurance call for
6 four hours?

7 MS. WILLENSON: Well, there's no evidence of that
8 here. So I don't know how to deal with that hypothetical.

9 THE COURT: All right.

03:00 10 MS. WILLENSON: That was the beginning of number 15
11 and what we propose. It's part of the first paragraph.

12 THE COURT: Okay. Liz, would you go take a look?

13 Anything else?

14 MS. WILLENSON: No.

03:00 15 THE COURT: Anything else, Mr. Meyeroff?

16 MR. MEYEROFF: No.

17 THE COURT: All right. Then Mr. Battles, come on up.

18 MS. SALAWDEH: Judge?

19 THE COURT: Yes.

03:00 20 MS. SALAWDEH: This might be me being hypersensitive,
21 but in his testimony he did use the name of one of the clients
22 at the group home. Because if this is a record I'm wondering if
23 there is a way to just have that woman's name stricken.

24 (Discussion off the record.)

03:01 25 THE COURT: All right. Should we get the jury?

1 (Jury in at 3:02 p.m.)

2 THE BAILIFF: You may be seated.

3 THE COURT: You may proceed, Counsel.

4 BY MS. WILLENSON:

03:02 5 Q. Mr. Battles, I believe you testified earlier that after the
6 first client came into the facility you began to pay yourself
7 back and that you paid yourself back in the amount of \$500 a
8 week.

9 A. I said that when I reached the third client then there was
03:03 10 -- I believe I collected \$500 every two weeks for the mortgage.
11 And that was probably for about maybe two months. The third
12 client.

13 Q. The third client and now your testimony is that it wasn't
14 \$500 a week, it was \$500 every two weeks?

03:03 15 A. Two weeks.

16 Q. And that was so that you could recover back some of your
17 investment in the business.

18 A. That's all.

19 Q. So there was some money available to pay yourself back.

03:03 20 A. Pay the business back, the mortgage, and my mortgage on the
21 third client as I believe that was April.

22 Q. You're the signatory on the mortgage, right? It's your
23 mortgage.

24 A. Yes. And the business.

03:04 25 Q. After Ms. Okoro's employment ended you hired your daughter

1 Keywana (Phonetic) Battles; is that correct?

2 A. My daughter was approved by the state and then hired as the
3 administrator.

4 Q. You did hire her as the administrator.

03:04 5 A. She was approved to be hired by myself and the state.

6 Q. And this was after Ms. Okoro left her employment.

7 A. No, that's not true. That was before. She came in -- Okoro
8 and I and my daughter, they was having a conversation, I
9 remember that. It was -- she was hired probably as
03:04 10 administrator about maybe a month before she left, a few weeks
11 before she left.

12 Q. When you say she, you mean Ms. Okoro.

13 A. Okoro.

14 Q. So a month or a few weeks before Ms. Okoro left you hired
03:04 15 your daughter Keywana Battles as the administrator.

16 A. Yes.

17 Q. And you paid her to do that job.

18 A. Well, we had the clients at the time to get paid.

19 Q. You paid her.

03:05 20 A. Yes. The administrator ran the business.

21 Q. Now, when you were paying your daughter Keywana to perform
22 the job of administrator, did your company continue to use
23 Paychex to do your payroll?

24 A. Always.

03:05 25 Q. And when Paychex generated pay information for your

1 employees did you keep a record of that?

2 A. Yes.

3 Q. Mr. Battles, I'm going to show you what we've marked as
4 Exhibit Number 17. This is a document that you've seen before
03:05 that was at your deposition in Ms. Salawdeh's office in January
6 earlier this year. Do you recall seeing this document?

7 A. I've seen this document. With Keywana Battles on it?

8 Q. Correct. Now, according to this document in the two-week
9 pay period May 16th, 2010 to May 29th, 2010, you paid your
03:06 10 daughter gross wages of \$1,000. Do you agree that this is what
11 the document shows?

12 A. I don't have my glasses with me.

13 MR. MEYEROFF: Are they here?

14 THE COURT: Do you want to borrow mine? Really?

03:06 15 THE WITNESS: They're reading glasses.

16 THE COURT: Yup. That's what they are. Go ahead.
17 Now I can't see.

18 (General laughter.)

19 THE WITNESS: What was your question?

03:07 20 BY MS. WILLENSON:

21 Q. The question is whether you agree that the document shows
22 that during the pay period May 16th to May 29th, 2010 you paid
23 your daughter gross wages of \$1,000?

24 THE COURT: Just one moment, please.

03:07 25 (Discussion off the record.)

1 THE WITNESS: Yes.

2 (Record read.)

3 THE WITNESS: Yes.

4 MS. WILLENSON: Your Honor, we would move for the
03:08 admission of Exhibit Number 17.

6 MR. MEYEROFF: No objection.

7 THE COURT: Received.

8 (Exhibit 17 received in evidence.)

9 BY MS. WILLENSON:

10 Q. Now, I know you said when Mr. Meyeroff was asking you some
11 questions that you characterized the work that Ms. Okoro did for
12 you is the work that at the facility is -- let me rephrase that.

13 What you said sounded like the job that you thought
14 you considered her to be in was the job of girlfriend. Do you
03:09 recall that?

16 A. Well, I didn't say that it was considered as girlfriend.
17 She didn't have a title. She would come by maybe once or twice
18 a week if she needed to check in and check paperwork, anything
19 like that. My administrator -- but she's not an administrator,
03:09 20 that was something that she was doing. But she didn't even need
21 to be on the premises. Not even a supervisor, not even a
22 administrator, not even I. She doesn't need to be there. Not
23 in the group home structure.

24 Q. Isn't it the case that you didn't actually know when or how
03:09 often she came to work?

1 A. Because she didn't have to be there. And I did know she
2 made her own hours. She did what she wanted to do because of
3 the relationship.

4 Q. So you didn't know when she was there.

03:09 5 A. There was no schedule. She had no schedule to work. She
6 made her own hours.

7 Q. So you did not know when she was there.

8 A. No.

9 Q. And you did not know how often she was there.

03:10 10 A. Wasn't scheduled, no.

11 Q. Despite the fact that according to you she had no job title,
12 I believe you agree that there were a number of tasks that she
13 performed that were for the benefit of Pyramid 4 Aegis; is that
14 true?

03:10 15 A. Tasks for her learning the business?

16 Q. No. I'm talking about tasks that were for the benefit of
17 the business.

18 A. I can say some of the tasks, yes.

19 Q. And one was she contacted people to invite them to an open
03:10 20 house in June 2009. You agree that she did that, correct?

21 A. She can do that.

22 Q. But you know that that's something that she did.

23 A. Some things that she did. I wasn't there when she made
24 contact. But I believe she did.

03:10 25 Q. So you're acknowledging that she did do that.

1 A. I'm just trusting what she says. But if she did she can do
2 that at any time, 30 minutes a day, 15 minutes a day. She
3 didn't need to be there eight hours.

4 Q. All right. Do you acknowledge that during her employment
03:11 5 she spoke to the caregivers and checked on them?

6 A. Well, she can do that maybe an hour twice a week or so.
7 Doesn't have to be eight hours. I believe she did, yes.

8 Q. And she met with the caregivers?

9 A. Yes.

03:11 10 Q. And she checked to see if various files were properly
11 maintained?

12 A. I don't know that. And I suspect that if she's there that
13 would be a nice thing for her to do, to check, but it doesn't
14 take eight hours or six hours.

03:11 15 Q. But you're not denying that she did that, are you?

16 A. That she came in there? I don't know what she did. I hope
17 that she may have done that.

18 Q. I see. And do you agree that she collected timesheets from
19 a file and called in the hours to Paychex so that payroll for
03:12 20 your employees could be processed?

21 A. We both called in Paychex. If she felt she should have got
22 paid she would have called.

23 Q. All right. So she did some of that calling.

24 A. We both called.

03:12 25 Q. And she made phone calls to caseworkers to discuss clients.

1 A. She says she did. I didn't witness see her doing that.

2 Q. Are you denying that she did that?

3 A. I didn't see her do it. She said she did it. I took her
4 word for it that she did it.

03:12 5 Q. So you're not disputing it.

6 A. I'm not disputing it.

7 Q. And she went to visit nursing homes?

8 A. We had done that together in the beginning of our
9 relationship. That was where our bond came.

03:12 10 Q. And she talked to referral agencies to attempt to secure
11 clients for your business Pyramid 4 Aegis.

12 A. We had done that together.

13 Q. So she did that.

14 A. We done that together. When she was with me we went to the
03:13 15 referrals, myself, her and I.

16 MS. WILLENSON: That's all I have.

17 THE COURT: Any redirect?

18 MR. MEYEROFF: Yeah, just a couple questions.

19 REDIRECT EXAMINATION

03:13 20 BY MR. MEYEROFF:

21 Q. Why did you pay your daughter and not pay Miss Okoro?

22 A. Well, my daughter was registered with the state and I had
23 the money. There was three clients I believe I had. And my
24 daughter was there to clean up what was out of place.

03:13 25 Q. Your daughter was registered with the state as what?

1 A. Well, she has a master's degree in business and she also
2 managed other group homes.

3 Q. Was she an administrator?

4 A. Yes.

03:13 5 Q. Was Miss Okoro an administrator?

6 A. Never.

7 MR. MEYEROFF: I have no other questions.

8 THE COURT: Thank you, Mr. Battles. You may step
9 down.

03:14 10 (Witness excused at 3:14 p.m.)

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C E R T I F I C A T E

I, JOHN T. SCHINDHELM, RMR, CRR, Official Court Reporter for the United States District Court for the Eastern District of Wisconsin, do hereby certify that the foregoing pages are a true and accurate transcription of my original machine shorthand notes taken in the aforementioned matter to the best of my skill and ability.

Signed and Certified April 23, 2015.

/s/John T. Schindhelm

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